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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,384	08/06/2003	Paul A. Noel	42430-10706	1286
47377	7590	02/10/2006	EXAMINER	
JENNER & BLOCK LLP ONE IBM PLAZA CHICAGO, IL 60611				RIVERO, ALEJANDRO
ART UNIT		PAPER NUMBER		
		2684		

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/635,384	NOEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alejandro Rivero	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 August 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: "METHOD AND APPARATUS FOR QUEUING CALLERS IN A PUSH-TO-TALK CALL BASED ON PRIORITY LEVEL DESIGNATIONS".
2. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains the phrase "is disclosed" (in lines 2-3), which can be implied. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

In page 14 (lines 3-5), the steps "(650)" and "(660)" are not included in the drawings.

Appropriate correction is required.

***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **steps 650 and 660**. The drawings are also objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: **step 440**. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. Claims 1, 9, 13, 14, 15, 18 and 19 are objected to because of the following informalities:

In claim 1 (line 9), claim 9 (lines 1 and 2), claim 13 (line 11), claim 15 (line 2) and claim 18 (line 2), the examiner respectfully suggests replacing "priority designation" with

"priority level designation" in order to use the same name for the same element throughout the claims.

In claim 14 (line 7), the examiner respectfully suggests replacing "participant currently speaking" with "participant initiating the call" since this appears to be a typographical error. For the purpose of this examination, claim 7 will be interpreted as reciting "participant initiating the call" (in line 7) in place of "participant currently speaking".

In claim 19 (line 2), the examiner respectfully suggests replacing "request to display of the queue order" with "request for a display of the queue order".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 3 recites the limitation "the step of interactively communicating" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of this examination claim 3 will be treated as reciting "a step of interactively communicating" in place of "the step of interactively communicating" (lines 1-2).

8. Claim 5 recites the limitation "the device" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of this examination claim 5 will be treated as reciting "a device" in place of "the device" (line 2).

9. Claim 12 recites the limitations "the step of requesting" "the queue order" in lines 1 and 2, respectively. There is insufficient antecedent basis for these limitations in the

claim. For the purpose of this examination claim 12 will be treated as reciting "a step of requesting" in place of "the step for requesting" (line 1) and "a queue order" in place of "the queue order" (line 2).

10. Claim 19 recites the limitation "the queue order" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of this examination claim 19 will be treated as reciting "a queue order" in place of "the queue order" (line 2).

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Maggenti et al. (US 2002/0086665 A1).

Consider claim 1, Maggenti et al. disclose in a telecommunications system using half-duplex communications and a push-to-talk feature, a method for queuing participants (arbitration) in a push-to-talk call (Paragraph [0035]), the method comprising the steps of: defining a group for the push-to-talk call in response to a user input and wherein the group has at least one participant (Abstract, paragraphs [0046] and [0052]); determining the availability of the at least one participant (Paragraphs [0010], [0113] and [0114]); assigning a priority level designation to the at least one participant (Paragraph [0035]); allocating resources for the push-to-talk call after the steps of determining the availability of the at least one participant and assigning a

priority designation to the at least one participant (Paragraphs [0035], [0045], [0061] and [0181], where Maggenti et al. disclose releasing resources until they are reinstated later for call-signaling and previously it has been determined the availability of at least one participant and the participants priority designation); and granting access to transmit speech in the push-to-talk call based on the priority level (Paragraph [0035]).

Consider claims 5 and 6 (and the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejection above for claim 5), Maggenti et al. disclose all the limitations as applied to claim 1 and also disclose wherein the step of defining a group for the push-to-talk call in response to a user input further includes the step of defining the group for the push-to-talk call using a device capable of sending and receiving messages (as in claim 5) and an Internet interface (as in claim 6) to select at least one participant (Paragraphs [0041]-[0042], reads on claims 5 and 6).

Consider claims 7 and 8, Maggenti et al. disclose all the limitations as applied to claim 1 and also disclose wherein the step of determining the availability of at least one participant further comprises the step of sending a request for access to a device capable of sending and receiving messages (as in claim 7) and receiving a response from the device capable of sending and receiving messages (as in claim 8), responsive to the step of sending a request for access to the device capable of sending and receiving messages. (Paragraphs [0159]-[0161], reads on claims 7 and 8).

Consider claim 10, Maggenti et al. disclose all the limitations as applied to claim 1 above and also disclose reserving a means for duplicating voice packets to be used in the call (Paragraph [0043]).

Consider claim 12 (and the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejection above), Maggenti et al. disclose all the limitations as applied to claim 1 above and also disclose requesting one of: a display of the queue order, and a display of all of the participants on the call (Paragraphs [0010], [0101] and [0117]).

Consider claim 13, Maggenti et al. disclose in a telecommunications system using half-duplex communications and a push-to-talk feature an apparatus for queuing participants (arbitration) in a push-to-talk call (Paragraph [0035]), comprising: a first server (Paragraph [0060], figure 3 element 252); a second server (Paragraph [0060], figure 3 element 236) communicatively (wireless) coupled to the first server and wherein the second server is programmed to: define a group for the push-to-talk call in response to a user input and wherein the group has at least one participant (Abstract, paragraphs [0046] and [0052]); determine the availability of the at least one participant (Paragraphs [0010], [0113] and [0114]); assign a priority level designation to the at least one participant (Paragraph [0035]); allocate resources for the push-to-talk call after determining the availability of the at least one participant and assigning a priority designation to the at least one participant (Paragraphs [0035], [0045], [0061] and [0181], where Maggenti et al. disclose releasing resources until they are reinstated later for call-signaling and previously it has been determined the availability of at least one participant and the participants priority designation); and interactively communicate with a device capable of sending and receiving messages over the telecommunications system (Paragraph [0012]); and grant access to transmit speech in the push-to-talk call based on the priority level (Paragraph [0035]).

Consider claims 2, 11 and 14 (and the Claim Objection for claim 14 above), Maggenti et al. disclose all the limitations as applied to claims 1 and 13 and also disclose depressing a button on a device capable of sending and receiving messages (Paragraph [0122], reads on claim 11) and wherein the second server is programmed for receiving a request to speak while a current participant is speaking (Paragraph [0053], reads on claims 2 and 14); comparing a priority level of a participant initiating the request to speak with that of the current participant currently speaking (Paragraphs [0053], and [0095]-[0096], reads on claims 2 and 14); and preempting the current participant based on the priority level of the participant initiating the request and the priority level of the current participant currently speaking, if the participant initiating the request has a higher priority level (Paragraphs [0053], [0095]-[0096] and [0154], reads on claims 2 and 14).

Consider claims 3 and 16 (and the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejection above for claim 3), Maggenti et al. disclose all the limitations as applied to claims 1 and 13 and also disclose wherein the second server is programmed to transmit messages indicating the current speaker to the device capable of sending and receiving messages over the telecommunications system (Paragraphs [0156]-[0157], reads on claims 3 and 16).

Consider claims 4, 15 and 17, Maggenti et al. disclose all the limitations as applied to claims 3 and 13 and also disclose wherein the second server is programmed to transmit messages indicating a change in speakers to the device capable of sending and receiving messages over the telecommunications system and indicating a priority level designation (Paragraph [0154], reads on claims 4, 15 and 17).

Consider claims 9 and 18, Maggenti et al. disclose all the limitations as applied to claims 1 and 13 above and also disclose wherein the second server is programmed to assign a priority designation to the at least one participant using one of: an Internet interface and the device capable of sending and receiving messages (Paragraphs [0035] and [0045], where Maggenti et al. disclose a priority code for determining how transmission privileges (priority) are granted or denied and such determinations are based on arbitration taking into consideration the priority level of a requesting net member (at least one participant) as compared (hence using) to the net member that has currently (device capable of sending and receiving messages) been assigned transmission privileges, reads on claims 9 and 18).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggenti et al. in view of Yafuso et al. (US 5,912,882).

Consider claims 19 and 20 (and the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejection above for claim 19), Maggenti et al. disclose all the limitations as applied to claim 13 and also disclose requesting a display of all the participants in the call (Paragraphs [0010], [0101] and [0117], of Maggenti et al.).

However, Maggenti et al. do not disclose wherein the display of all the participants includes the queue order and the queue order is displayed on the device capable of sending and receiving messages over the telecommunications system (as in claims 19 and 20).

Yafuso et al. disclose wherein the second server is programmed to send the queue order and the queue order is displayed on the device capable of sending and receiving messages over the telecommunications system (Column 7 lines 30-48, reads on claims 19 and 20)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Maggenti et al. to program the second server to receive a request for a display of the queue order and to display the queue order on the device capable of sending and receiving messages over the telecommunications system as taught by Yafuso et al. in order to allow the participants to view the queuing order on their respective devices, learn their place in the queuing order and alter their priority within pre-described limits under urgent circumstances (as suggested by Yafuso

et al. in column 6 lines 28-67 and column 7 lines 1-12, and by Maggenti et al. in paragraph [0191]).

***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alejandro Rivero whose telephone number is (571) 272-2839. The examiner can normally be reached M-F, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NICK CORSARO  
PRIMARY EXAMINER

A handwritten signature of "Nick Corsaro" is written over a printed name and title. The signature is fluid and cursive, with the name "Nick" and "Corsaro" being the most distinct parts. Below the signature, the words "PRIMARY EXAMINER" are printed in a smaller, sans-serif font.